

IN THE CIRCUIT COURT OF WEBSTER COUNTY, MISSISSIPPI

BOBBY JOE TOWNSEND

CLAIMANT

VERSUS

CAUSE NO.: 2010-81-CVM

STATE OF MISSISSIPPI

RESPONDENT

COMPLAINT

This action is brought by Bobby Joe Townsend seeking compensation for the one year and eight months he spent wrongfully imprisoned on charges brought against him in this Court.

1.

This Court has jurisdiction pursuant to Miss Code Ann. 11-44-5, (Senate Bill 3054) which was enacted by the Legislature and approved by the Governor on March 30, 2009 and which became effective on July 1, 2009.

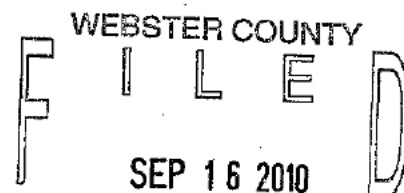
2.

The Respondent is the State of Mississippi, which will be represented by the Attorney General's Office.

3.

THE FACTS

Claimant, Bobby Joe Townsend, was arrested on June 1, 1998 and charged with sexual battery. On January 21, 1999, the Circuit Court of Webster County, Mississippi convicted him of sexual battery and he was sentenced to thirty (30) years in prison. See Judgment attached hereto as Exhibit "A."



DEBORAH HOOD NEAL
CIRCUIT COURT CLERK

[Signature] O.C.

4.

THRESHOLD REQUIREMENTS OF SB 3024

Claimant appealed to the Mississippi Supreme Court, which on June 15, 2000 remanded the case to the trial court to determine whether supplementation of the record was necessary and for consideration of whether a new trial was warranted. See Order attached hereto as Exhibit "B." A hearing was held in the Circuit Court of Webster County on December 7, 2000. By Order entered December 11, 2000, the trial court granted Townsend a new trial. Claimant did not intentionally waive any appellate or post-conviction remedy.

5.

This claim is not time barred because of Miss. Code Ann. 11-44-5.

6.

TOWNSEND IS INNOCENT AND ENTITLED TO JUDGMENT

Claimant is entitled to judgment because he was convicted of sexual battery and served a term of imprisonment. His judgment of conviction was remanded to the trial court by the Mississippi Supreme Court. Townsend was retried and found not guilty at the new trial on March 20, 2001, in the Circuit Court of Montgomery County, Mississippi. See Judgment attached hereto as Exhibit "C." He did not commit the felony for which he was convicted and sentenced. He did not commit perjury or suborn perjury, or fabricate evidence to bring about his conviction.

7.

AMOUNT OF COMPENSATION

Claimant was wrongfully imprisoned in the Webster County Jail from June 1, 1998 to June 9, 1998; the Calhoun County Jail from June 9, 1998 to July 3, 1998; and, in the custody of the

Mississippi Department of Corrections from January 21, 1999 to August 18, 2000, having been incarcerated for a total period of twenty (20) months. See MDOC correspondence attached hereto as Exhibit "D." Claimant should be awarded \$83,333.00 for this period of time that he was wrongfully imprisoned.

ATTORNEY'S FEES

Attorney's fees should be awarded for preparing and filing the claim at a rate of ten percent (10%), for filing the claim; if it is contested by the attorney general, at a rate of twenty percent (20%); and, if the claim is appealed, at a rate of twenty-five percent (25%), plus expenses. Miss. Code Ann. 11-44-5.

REQUEST FOR RELIEF

Plaintiff Bobby Joe Townsend should be awarded \$83,333.00, as required by Miss. Code Ann. 11-44-5. Reasonable attorney's fees and expenses at the statutory rate should also be awarded, in addition to the \$83,333.00 compensation, with interest at 8% per annum, commencing at the date of filing this claim.

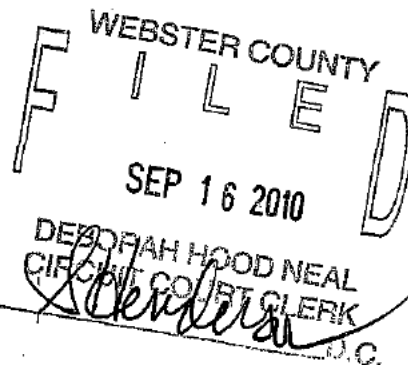
Respectfully submitted,

WAIDE & ASSOCIATES, P.A.

BY: Jim Waide

JIM WAIDE
MS BAR NO. 6857

WAIDE & ASSOCIATES, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1357
TUPELO, MISSISSIPPI 38802
TELEPHONE: 662-842-7324
FACSIMILE: 662-842-8056
EMAIL: waide@waidelaw.com
Attorney for Claimant



AFFIDAVIT AND VERIFICATION OF BOBBY JOE TOWNSEND

STATE OF MISSISSIPPI


COUNTY OF LEE

My name is Bobby Joe Townsend. I spent one year and eight months in jail and prison for a crime I did not commit. All along, I stated that I was innocent. My conviction was remanded for a new trial, on appeal by the Mississippi Supreme Court. On retrial, I was found not guilty, and am innocent of the charges that were made against me.

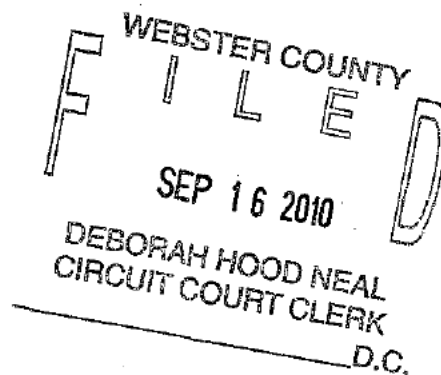
I have read the foregoing Complaint and what is said in it is true.


BOBBY JOE TOWNSEND

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 5th DAY OF AUGUST, 2010.


NOTARY PUBLIC

My commission expires:



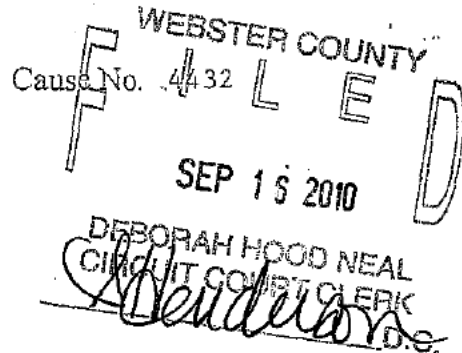
IN THE CIRCUIT COURT OF WEBSTER COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

v.

BOBBY JOE TOWNSEND

JUDGMENT



On January 21, 1999, into open court came both the State of Mississippi and the Defendant, BOBBY JOE TOWNSEND, represented by counsel, the Defendant having been arraigned on an indictment charging SEXUAL BATTERY which indictment was returned by a duly sworn and empaneled grand jury, and to which indictment the Defendant entered a plea of not guilty. Upon the Court's call of said cause in open court, both sides announced ready for trial, after which a jury was selected and accepted by both sides, the same being duly sworn and empaneled and being composed of twelve men and women.

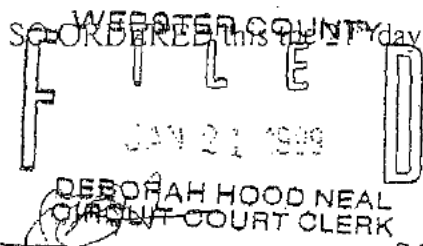
After presentation of all the evidence, the reading of instructions, and hearing argument of counsel, the said jury retired to deliberate its decision, and returned into open court with the following verdict:

"We, the jury, find the Defendant guilty of Sexual Battery."

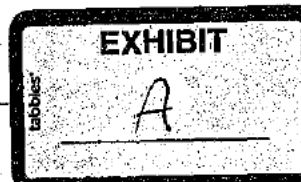
IT IS, THEREFORE, ORDERED that the Defendant, BOBBY JOE TOWNSEND, be and he is hereby sentenced to serve a term of Thirty (30) years with the Mississippi Department of Corrections.

The Defendant is remanded to the custody of the Sheriff to await transportation.

So ORDERED this 21 day of January, 1999.



C. E. Morgan III
CIRCUIT COURT JUDGE



IN THE SUPREME COURT OF MISSISSIPPI

No. 1999-KA-00859

BOBBY JOE TOWNSEND

v.

STATE OF MISSISSIPPI

FILED

JAN 25 2001

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

ORDER

This matter has come before a panel of this Court consisting of Banks, P.J., Smith and Cobb, JJ. on the Court's own motion to dismiss the above styled appeal. On June 15, 2000, this Court entered an Order remanding the case to the trial court for a hearing to determine whether supplementation of the record was necessary and for consideration of whether a new trial was warranted. A hearing was held in the Circuit Court of Webster County on December 7, 2000. By Order entered December 11, 2000, the trial court granted Townsend a new trial based upon a finding that certain exculpatory and discoverable evidence was not disclosed to the defense prior to trial. The new trial is scheduled to be held on March 19, 2001. Accordingly, this panel finds that the above styled appeal is moot and should be dismissed.

IT IS THEREFORE ORDERED that the above styled appeal be and hereby is dismissed. All costs of this appeal are assessed against Webster County.

SO ORDERED, this the 25th day of January, 2001.

WEBSTER COUNTY

FILED

SEP 16 2010

DEBORAH HOOD NEAL

CIRCUIT COURT CLERK

KAY B. COBB, JUSTICE

Stender D.C.

WEBSTER COUNTY

FILED

FEB 20 2001

DEBORAH HOOD NEAL
CIRCUIT COURT CLERK

EXHIBIT

B

STATE OF MISSISSIPPI

HINDS COUNTY

I, Betty W. Sephton, Clerk of the Supreme Court and Court of Appeals of the State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the opinion and/or order(s) delivered by the Court in the cause therein stated, as the same appears of record on file in my office.

Given under my hand, with the seal of
said Court affixed, at office, in the City
of Jackson, Mississippi, this the 15th
day of February, 2001, A.D.

WEBSTER COUNTY
Betty W. Sephton
CLERK
FILED
SEP 16 2010
DEBORAH HOOD NEAL
CIRCUIT COURT CLERK
Stender

WEBSTER COUNTY
FILED
FEB 20 2001
DEBORAH HOOD
CIRCUIT COURT CLERK

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS

CAUSE NO. 2000-0127-CR

BOBBY JOE TOWNSEND

JUDGMENT

On March 19, 2000, into open court came both the State of Mississippi and the defendant, BOBBY JOE TOWNSEND, each represented by counsel, the defendant having been arraigned on an indictment charging the defendant with SEXUAL BATTERY, which indictment was returned by a duly sworn and empaneled grand jury, and to which indictment the defendant entered a plea of not guilty. Upon the court's call of said cause in open court, both sides announced ready for trial, after which a jury was selected and accepted by both sides, the same being duly sworn and empaneled and being composed of twelve men and women.

After presentation of all the evidence, the reading of instructions, and hearing argument of counsel, the said jury retired to deliberate its decision, and returned into open court with the following verdict:

"We, the jury, find the Defendant, Bobby Joe Townsend, not guilty."

SO ORDERED this the 20 day of March, 2001.

WEBSTER COUNTY

FILED
SEP 16 2013

DEBORAH HOOD NEAL
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, MISSISSIPPI

C. F. Morgan
CIRCUIT COURT JUDGE

FILED

MAR 23 2001

Julie H. Halfacre
JULIE H. HALFACRE, CIRCUIT CLERK

BY _____ J.C.

EXHIBIT

C

GG 667

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CASE NO. 2000-127-CR

BOBBY JOE TOWNSEND

FORM OF THE VERDICT

[] "We, the jury, find the defendant guilty of SEXUAL
BATTERY."

☒ "We, the jury, find the defendant not guilty."

WEBSTER COUNTY

FILED

SEP 16 2010

DEBORAH HOOD NEAL
CIRCUIT COURT CLERK

D.C.

FILED

MAR 20 2011

JULIE H. MALLACRE, CIRCUIT CLERK

BY _____ D.C.

From: Philpot, Marilyn [MPhilpot@mdoc.state.ms.us]
Sent: Thursday, August 05, 2010 6:59 AM
To: Kent Guntharp
Cc: Robinson, Sherry
Subject: FW: Information Request Re: Bobby Joe Townsend - MDOC#R7357

Mr. Guntharp

Offender Bobby Townsend – MDOC#R7357 was sentenced on 01/21/1999 for Sexual Battery (Cause Number 4432) out of Webster County. Crime Commit Date 05/30/1998. He was moved to CMCF on 01/21/1999. He was released on Appeal Bond on 08/18/2000. (Mandate Issued 02/15/2001 – Return Exhibits that were filed back to Lower Courts).

Bottom Line: He was in MDOC Custody from 01/21/1999 to 08/18/2000.

He was in the Webster County Jail from 06/01/1998 to 06/09/1998
(Transferred to Calhoun County Jail)

06/09/1998 to 07/03/1998

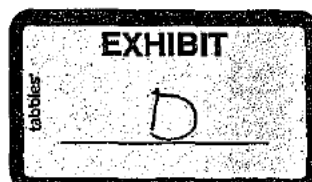
(Calhoun County Jail)

If I can be of further assistance, please do not hesitate to contact me at (601) 933-2889 ext. 6096.

Thanks

Marilyn Philpot

WEBSTER COUNTY
FILED
SEP 16 2010
DEBORAH HOOD NEAL
CIRCUIT COURT CLERK
Scanderson D.C.



From: Kent Guntharp
Sent: Friday, July 23, 2010 4:52 PM
To: 'recordsdirector@mdoc.state.ms.us'
Subject: Information Request Re: Bobby Joe Townsend
To Whom it may concern:

Our law firm represents -

Bobby Joe Townsend
49 Quinn Avenue
Maben, MS 39750

He is a black male, DOB: 5-31-54 and SS#: [REDACTED]

Mr. Townsend was incarcerated by the MS DOC for some period of time between December of 1998 and March of 2001. Can you check your records and advise us as to exactly how long he was incarcerated, and what the dates of his incarceration were? If I can provide you with additional information to assist in your efforts, please call me at the number below.

Thank you,

Kent Guntharp

Kent Guntharp, Investigator
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Tupelo, MS 38802-1357
Phone: 662-842-7324
kag@waidelaw.com
Fax: (662) 842-8056

